

Faulk, Camilla

From: Andrew Morrison [amorri1@co.pierce.wa.us]
Sent: Thursday, April 28, 2011 9:23 AM
To: Faulk, Camilla
Subject: Proposed CrR 4.11: Recording Interviews

I am writing in strong support of the proposed court rule regarding the recording of witness interviews.

I am a public defender in Pierce County. I have tried for several years now to record my witness interviews, with the strongest opposition not from civilians but law enforcement. On one occasion, where at the outset I advised the Deputy that the interview was being recorded by the device in the middle of the table, the Deputy refused to answer any questions, terminated the interview and contacted legal counsel for the Sheriff's Department. Shortly thereafter, myself and my supervisory chain received an email from that counsel threatening baseless criminal charges against me under the Privacy Act if I again attempted to record these interviews. It is important to note that at no point have my recordings ever been surreptitious or secretive. There is no excuse for law enforcement to refuse this measure of accountability, and I fear that they may claim the defense of victim witnesses in opposing this rule when it is the oversight over officer witnesses that they truly oppose.

As public defenders, we do our best to provide exceptional representation to the public on a shoestring budget. Our alternative to recorded interviews is to schedule and pay for an investigator witness, who does nothing more than sit and listen and do their best to take notes. On many occasions, my lay-person investigator has failed to note legally significant details from an interview, leaving my client without a necessary impeachment witness unless I am removed from the case. Recording equipment is a cheaper and far superior method of ensuring due diligence in investigating a case and representing a client.

In short, the public deserves this rule. It helps to ensure the truthfulness of witness testimony in our justice system, and better provides for the efficient use of public resources.

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